

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

KIMBERLY COCROFT,	:	Case No. 2:24-cv-04208
	:	
Plaintiff,	:	District Judge Michael J. Newman
	:	Magistrate Judge Caroline H. Gentry
v.	:	
	:	
FRANKLIN COUNTY OHIO, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**MOTION OF PLAINTIFF *PRO SE* FOR LEAVE TO FILE  
SECOND AMENDED COMPLAINT, *INSTANTER***

Pursuant to Fed. R. Civ. P. 15(a)(2), Plaintiff *pro se* hereby respectfully moves this honorable Court for an Order granting leave to file a Second Amended Complaint, *instante*. A Memorandum in Support follows.

Respectfully submitted,

/s/ Kimberly Cocroft  
Kimberly Cocroft (0073146)  
Plaintiff *pro se*  
345 S. High Street, #4E  
Columbus, OH 43215  
Email: kimberlycocroft@gmail.com  
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**MEMORANDUM IN SUPPORT**

On November 26, 2024, Plaintiff *pro se* filed her complaint with jury demand. (Doc. No. 1.) Plaintiff then filed her Amended Complaint on December 12, 2024 against all Defendants, pursuant to Fed. R. Civ. P. 15(a)(1)(A). (Doc. No. 12.) Therein, Plaintiff corrected the case caption to identify Defendant Franklin County, Ohio and also included new allegations beginning at Page 138, ¶1053. The Amended Complaint included one additional exhibit (Exhibit 132) related to the new allegations and was filed with the Amended Complaint.

Regrettably, since filing the Amended Complaint, Plaintiff continues to be subjected to disparate treatment, a hostile work environment, and retaliatory behavior by Defendants. As such, this request to the Court to modify her pleading has become a legal necessity.

Fed. R. Civ. P. 15(a)(2) states that “a party may amend its pleading only with the opposing party's written consent or the court's leave.” The Court should freely give leave when justice so requires. In this case, the Second Amended Complaint includes new allegations that begin at Page 144, ¶1091 and relate to the counts already asserted in the Amended Complaint. Moreover, the Second Amended Complaint updates the allegations at Page 4, ¶ 6 and Page 5, ¶¶ 9-10, and amplifies Plaintiff's § 1981 contractual claims by identifying a FCCP-Gen policy/contract approved and adopted in 2019 that designates judges as court employees. The Second Amended Complaint specifically cures any alleged defects with respect to the Section 1981 claim alleged in the pending motion to dismiss filed by Franklin County, Ohio, Jeanine Hummer, and Theresa Dean (collectively, “Franklin County Defendants”). Therein, Franklin County Defendants allege that Plaintiff failed to identify a “contract” upon which to base her § 1981 claim, but that alleged “defect” is cured by the identification of the FCCP-Gen policy in the Second Amended Complaint.

The Sixth Circuit has recognized that dismissing claims without permitting leave to amend can sometimes violate “the well-established preference for allowing claims to be decided on their merits where possible.” *Burkeen v. A.R.E. Accessories, LLC*, 758 F. App'x 412, 416 (6th Cir. 2018) (citing *Foman v. Davis*, 371 U.S. 178, 182 (1962)). More specifically, “[d]ismissal with prejudice and without leave to amend is not appropriate unless it is clear on de novo review that the complaint could not be saved by amendment.” *Newberry v. Silverman*, 789 F.3d 636, 646 (6th Cir. 2015) (citation omitted) (alteration in original); *see also PR Diamonds, Inc. v. Chandler*, 364 F.3d 671, 698 (6th Cir. 2004), *abrogated on other grounds by Frank v. Dana Corp.*, 646 F.3d 954, 961 (6th Cir. 2011) (“[W]hen a motion to dismiss a complaint is granted, courts typically permit the losing party leave to amend.”); *see also, Rashada v. Flegel*, 2024 WL 1367436, \*5 (6<sup>th</sup> Cir. April 1, 2024)(Denial of leave to amend complaint reversed because “plaintiff could cure his complaint’s deficiencies through amendment.”)

Finally, Plaintiff’s Second Amended Complaint, attached hereto as Exhibit A, is not submitted to cause undue delay, nor is it made in bad faith.

Therefore, Plaintiff respectfully requests that this honorable Court grant her leave to file a Second Amended Complaint, *instantly*.

Respectfully submitted,

/s/ Kimberly Cocroft  
Kimberly Cocroft (0073146)  
Plaintiff *pro se*  
345 S. High Street, #4E  
Columbus, OH 43215  
Email: kimberlycocroft@gmail.com  
Telephone: (380) 260-3123

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on the 25<sup>th</sup> day of February 2025, I caused the foregoing paper to be electronically filed with the Clerk of the Court using the ECF system that will send notification of such filing to all parties of interest participating in the CM/ECF system.

/s/ Kimberly Cocroft  
Kimberly Cocroft